

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
District of Puerto Rico

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24-CV-1413 MAJ

Zambrano Villamar, Ramón Iván
Petitioner

v.

Case No. _____

(Supplied by Clerk of Court)

Warden - Angel L. Alan
Respondent
(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Zambrano Villamar, Ramón Iván
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Metropolitan Detention Center Guaynabo
(b) Address: P.O. Box 2005 Catano, P.R. 00963-2005
- (c) Your identification number: 69264-018
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: Middle District of Florida
300 North Hogan Street, Suite 9150, Jacksonville, FL 32202-4271
(b) Docket number of criminal case: 8:17-CR-406-T-35TGW
(c) Date of sentencing: 01-23-2018
☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☒ Other (explain): First Step Act eligibility and removal

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: MDC Guaynabo, Puerto Rico(b) Docket number, case number, or opinion number: 1209957-F1

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I was eligible for FSA and had my 365 earned days in time credits applied to my early release suddenly removed and my eligibility removed.

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: MDC's Case Manager Ms. Valle(2) Date of filing: 07/01/2024(3) Docket number, case number, or opinion number: 1209957-F1(4) Result: Denied-I was told I was ineligible for FSA.(5) Date of result: 07/02/2024(6) Issues raised: By an immigration detainer my accrued and applied earned FTCs were removed for early release. I explained that the updated BOP policy for eligibility 18 U.S.C. § 3632(d)(4) struck out the criteria for a detainer as a requirement to have earned FTCs applied for early release. Also referenced a case in which an AIC had his FTCs removed due to an immigration detainer and the court ruled in favor of him and ordered B.O.P. to apply his earned FTCs (Yufenyay v. Warden FCI Berlin case no. 22-cv-443-AJ (District of NH, March 2023))

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

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(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: MDC Guaynabo, Unit Manager Mr. Alvarado
- (2) Date of filing: 07/08/2024
- (3) Docket number, case number, or opinion number: 1209957-F1
- (4) Result: Denied - I was told to be ineligible for FSA due to a final order of removal.
- (5) Date of result: 07/17/2024
- (6) Issues raised: I re-submitted my appeal with its attachments to a higher authority emphasizing issues ignored and the main issue at hand which is a detainer and not a final order of removal as they claim, and a detainer is no longer an obstacle for FSA eligibility.

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: MDC Guaynabo, Warden Mr. Adan
- (2) Date of filing: 07/29/2024
- (3) Docket number, case number, or opinion number: 1209957-F1
- (4) Result: Denied
- (5) Date of result: 8-26-2024
- (6) Issues raised: I re-submitted all previous appeals and their attachments to an even higher authority (Warden) using available administrative remedies. On this appeal there was yet another reference case attached in which the court ruled in favor ordering BOP to reapply and calculate correctly the AIG FTCs removed for the existence of an immigration detainer.

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I was eligible for FSA and had my 365 earned days in FTCs towards my early release and then they were removed

(a) Supporting facts (Be brief. Do not cite cases or law.):

On various documents given to me by BOP and MDC staff they show my FSA eligibility, my projected release method of FSA and my projected release date with my FTCs applied. These documents are attached to this petition and highlighted (Individualized Needs Plan, Program Review, Computation Data Sheet and FSA Time Credit Assessment)

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: The document BOP is using to remove my eligibility for FSA is an Immigration Detainer from DHS and not a final order of removal.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The document mentioned is DHS Form I-247A "Immigration Detainer-Notice of Action". This document is not identified as being a final order of removal, and in page 2 it repeats identifying the purpose for this document to the agency in custody stating it's a detainer.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: BOP's Documents stating my FSA eligibility were generated and given to me even with my detainer form from DHS already filed on my record.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The DHS detainer in which BOP staff wrongly mentioned to be a final order of removal was filed on November 28, 2023, my Computation Data sheet was generated on December 8, 2023, my most recent Program Review made by MDC's Unit team was made on March 14, 2024 and they both state my FSA eligibility and my earned 365 days applied. If this DHS form was a final order of removal as they claim my documents shouldn't be stating my eligibility.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

GROUND FOUR: The actual document identified as a Final order of removal does not exist.

(a) Supporting facts (Be brief. Do not cite cases or law.):

There is no such removal order emitted neither have I seen an immigration judge or immigration officer. I have requested to see or have a copy of the claimed final order of removal to MDC staff and their response is evasive stating back to the detainer filed.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

The dates for the documents was a fact I later found out on my own. And even though there was not an appeal that said the order does not exist it was implied by stating that the main issue was because of the existence of a detainer that was the one used to remove my eligibility

Request for Relief

15. State exactly what you want the court to do:

I want the court to see that BOP has wrongly removed my earned FTCs and to rule in favor of this request ordering BOP and MDC staff to restore my FSA status as eligible as it once was in order to have all my 365 earned days in FTCs reapplied towards my early release.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

fecha que envia este por correo 09/03/2024

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

fecha 09/03/2024

Firma Ramon Zamboni

Signature of Petitioner

Signature of Attorney or other authorized person, if any